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ADMISSIONS:
U.S. COURT OF FEDERAL CLAIMS ♦
U.S. SUPREME COURT ■
OREGON STATE COURT ▲
NEW JERSEY STATE COURT •

July 28, 2023

VIA EMAIL: BILL@BLANEYDONOHUE.COM

Attention: Bill Blaney, Esquire
Egg Harbor Township Police Department
3515 Bargaintown Road
Egg Harbor Township, NJ 08202

VIA EMAIL: PBA77BA@COMCAST.NET

Attention: Jeffrey Lancaster & Reynold Theriault
Mainland Local PBA #77
6712 Washington Ave., Suite 104
Egg Harbor Township, NJ 08234

RE: Christopher Leary v. Egg Harbor Township Police Dept., et al.

Dear Respondents:

Enclosed herewith please find a copy of Officer Christopher Leary's complaint filed today with the Public Employment Relations Commission, fax confirmation and copy of proof of service.

Should you need anything further, please contact my office.

Sincerely,
WIDMAN LAW FIRM, LLC

/s/ Phyllis Widman
Phyllis Widman, Esq.

PW/tlc
/Enclosure
cc: Christopher Leary

Phyllis Widman, Esq. (ID: 004861999)
WIDMAN LAW FIRM, LLC
2000 Shore Rd., 201
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O: (609) 848-5692 C: (732) 829-3416
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www.widmanlawfirm.com
Attorneys for Charging Party, Officer Christopher Leary

**STATE OF NEW JERSEY, PUBLIC EMPLOYMENT RELATIONS
COMMISSION**

UNFAIR PRACTICE CHARGE

I hereby certify that an original of the following document, was submitted and transmitted via email (mail@perc.state.nj.us) and fax (to: 609.777.0089) to the parties listed below:

Egg Harbor Township Police Department
VIA EMAIL TO COUNSEL: bill@blaneydonohue.com
3515 Bargaintown Rd.
Egg harbor Township, NJ 08202

Mainland Local PBA #77
VIA EMAIL: pba77ba@comcast.net
Attention Jeffrey Lancaster and Reynold Theriault
6712 Washington Ave., Suite 104
Egg Harbor Township, NJ 08234

I certify that the foregoing statements are true. I am aware that any of the foregoing statements made by me are willingly false, I am subject to punishment.

Widman Law Firm, LLC

Dated: July 28, 2023

/s/Phyllis Widman

Phyllis Widman, Esq.
Attorney-at-Law
State of New Jersey

* * * Communication Result Report (Jul. 28, 2023 4:44PM) * * *

1)

2)

Date/Time: Jul. 28, 2023 4:42PM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
2407	Memory TX	6097770089	P. 4	OK	

Reason for error	
E. 1) Hang up or line fail	E. 2) Busy
E. 3) No answer	E. 4) No facsimile connection
E. 5) Exceeded max. E-mail size	E. 6) Destination does not support IP-Fax



July 28, 2023

VIA EMAIL AND FAX
Email: mail@perc.state.nj.us
Fax: (609)777-0889
Public Employment Relations Commission
P.O. Box 429
Trenton, NJ 08625-0429

RE: Christopher Leary v. Egg Harbor Township Police Dept., et al.

Dear Sir/Madam:

Enclosed herewith please find an Unfair Practice Charge for filing, as well as proof of service, on behalf of the above-named charging party.

Should you need anything further, please contact my office.

Sincerely,
WIDMAN LAW FIRM, LLC

lsl Phyllis Widman
Phyllis Widman, Esq.

PW/dc
/Enclosure
cc: Christopher Leary

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSIONPO Box 429
TRENTON, NEW JERSEY 08625-0429

UNFAIR PRACTICE CHARGE

For Courier Delivery
495 West State St.
Trenton, NJ 08618www.state.nj.us/perc

Phone: 609-292-6780

Email: mail@perc.state.nj.us

Fax: 609-777-0089

Read instructions in the middle of this page before completing the form.

DO NOT WRITE IN THIS SPACE

DOCKET NO.

DATE FILED:

1. CHARGING PARTY

Full Name: Christopher Leary	E-mail Address: ssmmnl@aol.com	Telephone No.: (609) 338-7742
Address of Charging Party (Street and Number, City, State and Zip Code): 4 Knight Court / Egg Harbor Township, NJ 08234		County: Atlantic
Name and Title of Representative/Attorney/Consultant to Contact: Widman Law Firm, LLC // Phyllis Widman, Esq.	E-mail Address: pwidman@widmanlawfirm.com	Telephone No.: (609) 848-5692
Representative/Attorney/Consultant Address (Street and Number, City, State and Zip Code): 2000 Shore Road, Suite 201, Linwood, NJ 08221		

2. RESPONDENT(S) (*Must be a public employer and/or employee organization against whom the charge is made. Cannot be an individual person.*)

Respondent 1	Full Name: Egg Harbor Township Police Department	E-mail Address: bill@blaneydonohue.com	Telephone No.: (609) 435-5368
Address of Respondent (Street and Number, City, State and Zip Code): 3515 Bargaintown Rd, Egg Harbor Township, NJ 08234		County: Atlantic	
Name and Title of Representative/Attorney/Consultant to Contact: Bill Blaney, Esq.	E-mail Address: bill@blaneydonohue.com	Telephone No.: (609) 435-5368	
Representative/Attorney/Consultant Address (Street and Number, City, State and Zip Code): 2123 Dune Drive #11, Avalon, NJ 08202			
Respondent 2 (If Any)	Full Name: Mainland Local PBA #77	E-mail Address: PBA77BA@comcast.net	Telephone No.: (609) 576-9377
Address of Respondent (Street and Number, City, State and Zip Code): 6712 Washington Avenue, Suite 104, Egg Harbor Township, NJ 08234		County: Atlantic	
Name and Title of Representative/Attorney/Consultant to Contact: Jeffrey Lancaster and Reynold Theriault	E-mail Address: PBA77BA@comcast.net	Telephone No.: (609) 576-9377	
Representative/Attorney/Consultant Address (Street and Number, City, State and Zip Code): 6712 Washington Avenue, Suite 104, Egg Harbor Township, NJ 08234			

INSTRUCTIONS FOR FILING AN UNFAIR PRACTICE CHARGE

- (1) Type or clearly print all information and complete all sections of the charge.
- (2) Under Section 3 (Statement of Charge) provide a **CLEAR AND CONCISE** statement of the specific facts (not just cursory legal allegations) constituting the alleged unfair practice. If you need more space for your statement, then attach it to the charge. You may **not** rely on other documents (such as letters, emails, or memoranda) submitted with the charge to constitute your statement. You must instead identify the relevant facts in your charge.
- (3) The Statement of Charge must:
 - a. list the **subsections** of the Act alleged to have been violated (at the top of Section 3);
 - b. specify the **date**, and, to the extent known, the **place** the alleged acts occurred and the **names** of the persons alleged to have committed such acts.
- (4) In Section 4, state specifically the remedy you are asking the Commission to order.
- (5) Sign and date the Certification in Section 6 at the end of the second page. Provide a new signature and date for any amendments.
- (6) File the charge by sending it by email to mail@perc.state.nj.us, by fax to 609-777-0089, or by mail/courier to the addresses above.
- (7) You **must** include with your filing proof that you served a copy of the charge on the respondent(s). Proof can take the form of a statement explaining how, when, and on whom the charge has been served. You can also CC respondents if filing by email.

A CHARGE WILL NOT BE PROCESSED IF THE ABOVE REQUIREMENTS ARE NOT MET.

3. STATEMENT OF CHARGE

List the subsection(s) of N.J.S.A. 34:13A-5.4(a) that you allege the public employer respondent(s) violated: (1) (3) (7)

List the subsection(s) of N.J.S.A. 34:13A-5.4(b) that you allege the employee organization respondent(s) violated: (1) (2) (3) (5)

Pursuant to the New Jersey Employer-Employee Relations Act, as amended, the charging party hereby alleges that the above-named respondent(s) engaged in conduct constituting the alleged unfair practice(s) within the meaning of the above-listed subsection(s) in that:

Officer Leary participated in the Egg Harbor Township Police Department (EHT PD) promotional process for which testing occurred on multiple days throughout September 2022. The testing was administered by Officer William Nally of NJSACOP, a private organization. Chief of Police Michael Hughes (Chief at the time) was responsible for organizing and administering the exams on behalf of the EHT PD. Upon information and belief, the test was administered unfairly and/or the scores may have been altered. Specifically, the test purposely contained questions about equipment Officer Leary does not use, providing an unfair advantage to those who were trained in that equipment. For example, four (4) of the five (5) officers promoted were specifically trained in and carry the equipment that the applicants were tested on. Furthermore, individuals with similar test results were promoted over Officer Leary, despite their lack of seniority or experience in comparison to Officer Leary. Upon information and belief, Chief of Police Michael Hughes made most of these decisions.

(See next page for additional space)

Statement of Charge Continued

Further, the EHT PD breached its contract with Officer Leary's Union, Mainland Local PBA #77 (the "Union"), of which Officer Leary is a third party beneficiary, by refusing to allow him to see the full results of his promotional tests. Chief of Police Michael Hughes was responsible for entering into the contract with NJSACOP that contradicts the union contract. Officer Leary attempted to resolve this issue through the Police Department's internal grievance process, but was not afforded any relief. Officer Jeffrey Lancaster, President of the Union, failed to take action on Officer Leary's behalf. Officer Reynold Theriault was the union representative responsible for representing Officer Leary throughout his Grievance process. Both Officer Lancaster and Officer Theriault failed to bring the matter to arbitration and otherwise represent Officer Leary, despite Officer Leary's wishes and requests.

***The EHT PD knew at all times before, during, and after the promotional testing was administered that they were not upholding their contract with the Union/Officer Leary that requires them to disclose the testing results due to their secondary contract with the third party test administrator. In fact, former Chief of Police, Michael Hughes admits in his response to Officer Leary's Step Two Grievance that this is an ongoing problem that has been coming up for decades because this understanding was, and is, still very clear." (see Officer Hughes' response to Grievance, on 11/22/22). Despite this, rather than fix this issue, Officer Hughes' suggested the remedy is for Officer Leary and others to stop complaining and simply accept that their contracts are not being fulfilled.**

The final decision on Officer Leary's Step Three Grievance was authored by Donna L. Markulic and issued January 30, 2023. Ms. Markulic, on behalf of the Township, admitted that "it is clear that both the contract and the General Order allows officers the right to review their tests." Despite this, the Township claims the tests are administered by a third party company (NJSACOP) and that releasing the results to Officer Leary would be a breach of the Township's contract with that third party entity. When Officer Leary consulted his union representative about appealing this decision through arbitration, his union representative told Officer Leary that he refused to take any further action. The Union also informed Officer Leary that they had already indicated to the Township that there would be no appeal or arbitration, over Officer Leary's objection to same.

Had Officer Leary been afforded the opportunity to see his test results, he would have had more information to base his grievance and appeal on, and it could potentially have affected where he finished on the promotional list. In addition, the promotions were made official prior to their expected timeline and during the same time that multiple grievances, including Officer Leary's, were in the process of being filed and reviewed.

The Union breached its duty of fair representation in the grievance process in several ways. Among other reasons, the Union did not fight to make sure the contract discrepancies would actually be resolved and it intentionally conspired with the police department, choosing the department over its own charge, Officer Leary. Upon information and belief, this decision was not based on the merits of the Grievance, but instead upon conspiracy, discrimination, and breach of contract.

4. REMEDY SOUGHT (State the remedy you request the Commission to order)

For Respondents to provide the additional requested information regarding Mr. Leary's test scores in accordance with the contract between the Township and the Union, and to provide for the following types of remedies - economic, punitive, incidental, and compensatory damages, including, but not limited to: intentional, mental and emotional suffering caused by this incident, past and future wages, promotion, among other requests. Requester also submits that the contract with NJSACOP or any alternative promotional exam administrator be directed to disclosure scores in accordance with the contract between the Union and the Township. As well as any and all remedies available for breach of contract claims under the law.

5. PLEASE ADVISE:

1) Has a grievance been filed which is based upon the same facts alleged in the charge or is otherwise related to the charge?

Yes No

If yes, what is the status of the grievance?

Marked as "resolved," but no resolution was actually achieved. Mainland Local PBA #77 refused to pursue arbitration despite Requester's desires to arbitrate.

2) Are there any filings at PERC, in court, at the Office of Administrative Law, or before any other administrative agency which are based upon the same facts alleged in the charge or are otherwise related to the charge?

Yes No

If yes, please specify what they are. If possible, please include docket numbers.

A civil court lawsuit has been filed simultaneously.

3) Are the parties in negotiations?

Yes No

If yes, in what stage of the negotiations process are the parties (negotiations, mediation, fact-finding, super conciliation, interest arbitration)? Please include the date of the next scheduled negotiations session.

Respondents have not shown much interest in negotiations at this point. The undersigned's counsel has contacted counsel for the EHT PD in efforts to have good faith negotiations, but counsel for EHT PD has not provided any response.

6. CERTIFICATION

I declare that I have read the above charge and that the information is true to the best of my knowledge and belief.

By

(Signature)

Charging Party

(Title)

7/28/23
(Date)